UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,719	11/08/2001	Weidong Mao	1216	2723

26291 7590 12/28/2005

PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE, STE 100
FIRST FLOOR
SHREWSBURY, NJ 07702

EXAMINER	
LAYE, JADE O	

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/010,719	MAO ET AL.	
	Examiner	Art Unit	
	Jade O. Laye	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 November 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☒ Claim(s) *1,6,11 and 18* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *4/30/02* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

I. Claims 1, 6, 11, and 18 are objected to because each contains the phrase "...assets in stored in...", which appears to contain a typo.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

II. Claims 1, 5, 11-14, 17, 25-27, 30, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by *Bradley et al.* (US Pat. No. 5,172,413).

As to Claim 1, *Bradley et al* disclose a hierarchical video on demand (VOD) delivery system which comprises a centrally located server and multiple local servers. The central and local servers store various programming (which may or may not be available on all servers) available on the network. A user is allowed to request a listing of programming available on the network directory and to subsequently request the program itself. If a user request a program which is only stored on the central server, the local server will request said program to be sent from said central server. Moreover, the system tracks and stores all subscriber billing records. Lastly, the Examiner interprets "gateway" as the entrance and exit to and from the VOD

network. Therefore, the local server itself would read upon this limitation. (Fig. 1; Abstract; Col. 1, Ln. 24-31; Col. 5, Ln. 4-27; Col. 7, Ln. 5-36; Col. 8, Ln. 33-Col. 9, Ln. 10; Col. 11, Ln. 58-Col. 12, Ln. 40; Col. 15, Ln. 8-Col. 16, Ln. 40; Col. 17, Ln. 1-25). Accordingly, *Bradley et al* anticipate each and every limitation of Claim 1.

Claims 11-13, 25, and 26 are encompassed within the limitations of Claim 1. Thus, each is analyzed and rejected as previously discussed.

As to Claim 2, *Bradley* further teaches said VOD program can be video. (cited under Claim 1). Accordingly, *Bradley et al* anticipate each and every limitation of Claim 2.

Claims 14 and 27 correspond to Claim 2. Thus, each is analyzed and rejected as discussed previously.

As to Claim 5, *Bradley* further teaches the system can generate textual data. (Col. 17, Ln. 1-2). Accordingly, *Bradley et al* anticipate each and every limitation of Claim 5.

Claims 17 and 30 correspond to Claim 5. Thus, each is analyzed and rejected as previously discussed.

As to Claim 31, each limitation was encompassed under the rejection of Claim 1. However, for the Examiner provides the following clarification. Since the user is allowed to request a listing of programs on the network directory, it is inherent the local server (i.e., gateway) requests a listing of the programs located on the central server in order to display said listings (which are a combined listing of central and locally stored programs). Also, since the system must locate said requested program, it is inherent the system decide which server contains said program. Once located, the system will, of course, transmit a request to the respective server for the program. Accordingly, *Bradley et al* anticipate each and every limitation of Claim 31.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

III. Claims 3, 4, 15, 16, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Bradley et al* in view of *Gordon et al.* (US Pat. No. 6,253,375).

Claims 3 and 4 recite the method of Claim 1, wherein the VOD program is an audio and graphic program, respectively. As discussed above, *Bradley et al* anticipate each and every limitation of Claim 1, but fail to specifically recite the remaining limitations. However, within the same field of endeavor, *Gordon et al* disclose a similar VOD system which provides audio and graphical data. (Col. 3, Ln. 65-Col. 4, Ln. 1). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Bradley* and *Gordon* in order to provide a system which delivers more diverse data.

Claims 15 and 28 correspond to Claim 3, while Claims 16 and 29 correspond to Claim 4. Therefore, each is analyzed and rejected as previously discussed.

IV. Claims 6-10, 18-24, and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Bradley et al.*

Claim 6 recites a method of broadcasting VOD programming, comprising limitations which will not be recited herein (however, each will be addressed herein). The majority of Claim 6 limitations are encompassed under the rejection of Claim 1. However, for clarification, the Examiner will discuss a few limitations. Since the user is allowed to request a listing of programs on the network directory, it is inherent the local server (i.e., gateway) requests a listing of the programs located on the central server in order to display said listings (which are a combined listing). Also, since the system must locate said requested program, it is inherent the system decide which server contains said program. Once located, the system will, of course, transmit a request to the respective server for the program.

But, *Bradley* does not specifically disclose that each server contain its own individual billing computer (i.e., first and second business management system). However, *Bradley* does

teach the central server contains such a computer, which handles all local server billing transactions (cited under Claim 1). Thus, a system which contains billing computers in each local server would only be an obvious variant of *Bradley*'s design. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to modify the system of *Bradley* in order to contain billing management systems for each local server, thereby providing a more efficient billing infrastructure. This increased efficiency would be a result of the decreased bandwidth required since the system no longer sends all billing transactions to the central server—rather, each can be stored on its respective local server.

Claims 18-20 and 32 correspond to Claim 6. Thus, each is analyzed and rejected as previously discussed.

Claim 7 corresponds to Claim 2. Thus, it is analyzed and rejected as discussed therein.

Claims 21 and 33 correspond to Claim 7. Thus, each is analyzed and rejected as discussed previously.

Claim 8 corresponds to Claim 3. Thus, it is analyzed and rejected as discussed therein.

Claims 22 and 34 correspond to Claim 8. Thus, each is analyzed and rejected as discussed previously.

Claim 9 corresponds to Claim 4. Thus, it is analyzed and rejected as discussed therein.

Claims 23 and 35 correspond to Claim 9. Thus, each is analyzed and rejected as discussed previously.

Claim 10 corresponds to Claim 5. Thus, it is analyzed and rejected as discussed therein.

Claims 24 and 36 correspond to Claim 10. Thus, each is analyzed and rejected as discussed previously.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. *Son et al* (WO 01/43418) disclose a similar VOD system. (**Note** all incorporated art)

b. *Girard et al* (US Pat. No. 5,751,282) disclose a VOD system.

c. *Christopoulos et al* (US Pat. Pub. No. 2001/0047517) disclose a distribution system which utilizes a transcoder.

d. *Koz et al* (US Pat. No. 6,188,428) disclose a transcoding file server system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye
December 16, 2005.

CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600